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Report of the Working Group on the Universal Periodic Review*

Swaziland

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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Responses of Swaziland to the recommendations contained in paragraph 109 of the report of the working group on the Universal Periodic Review (A/HRC/33/14)

1. The Kingdom of Swaziland welcomes the recommendations made during its second Universal Periodic Review on 10 May 2016.

2. The Kingdom of Swaziland is pleased to report that, out of 181 recommendations, 131 enjoy the support of the State and 50 do not as yet enjoy the State's support.

I. Sign, ratify or accede to international treaties

A. Second Optional Protocol to the International Covenant on Civil and Political Rights[1]

3. Swaziland is not yet ready to accept this recommendation. Although this recommendation does not enjoy Swaziland's support, Swaziland does not carry out capital punishment and will not do so in the foreseeable future.

B. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women[2]

4. This recommendation enjoys the support of the State.

C. Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment[3]

5. This recommendation is accepted. Swaziland will accede to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, in accordance with its domestic processes, prior to Swaziland's third UPR.

D. Optional Protocol to the Convention on the Rights of the Child[4]

6. Swaziland accepts this recommendation. The State acceded to this protocol on 24 September 2012. To this end, the country has enacted the Children Protection and Welfare Act, 2012.

E. International Convention on the Protection of the Rights of All Migrant Workers and members of their Families[5]

7. This recommendation does not enjoy the support of Swaziland. The Constitution of Swaziland adequately protects the rights of migrant workers and members of their families.

F. International Convention for the Protection of All Persons from Enforced Disappearance[6]

8. This recommendation is noted.

G. Convention on the Prevention and Punishment of the Crime of Genocide[7]

9. Swaziland accepts this recommendation.

H. Indigenous and Tribal Peoples Convention 169 of the ILO[8]

10. This recommendation is noted. Swazis are indigenous to Swaziland and the country is homogenous.

II. Formal abolition/moratorium on the death penalty[9]

11. Swaziland has noted this recommendation. However, a factual moratorium on the application of the death penalty will remain in place.

III. Discrimination

A. Allow women to transmit their nationality to their children[10]

12. Swaziland has noted this recommendation and appreciates the spirit it was made. Enabling Swazi women to transmit their nationality to their children with foreign men will require amendments to the Constitution. Swaziland will consider amending the Constitution.

B. Cultural practices that discriminate against children with disabilities, women, and all persons living with HIV/AIDS[11]

13. Swaziland accepts this recommendation.

C. Align national laws with CEDAW[12]

14. Swaziland accepts this recommendation.

D. People living with albinism[13]

15. Swaziland accepts these recommendations. A national registry of persons with albinism will be created to help prevent the killings of people with this condition.

IV. Criminalization of torture[14]

16. This recommendation is noted. The criminal law of Swaziland is broad enough to prosecute and punish perpetrators of torture without creating a new statutory offence. Furthermore perpetrators may be held liable for damages under our civil law.

17. The law enforcement objectives contained in Section 57 of our Constitution specifically prohibits law enforcement officers from committing torture and other forms of cruel, inhuman or degrading treatment or punishment. What is more, this prohibition has

been incorporated into section 10 of the Police Bill. This Bill is presently going through the legislative process.

V. Prison conditions[15]

18. Swaziland accepts these recommendations. Currently the State is rehabilitating dilapidated correctional facilities and constructing new ones. All Correctional facilities have clinics manned by Matrons and Nutritionists who look into the menu of offenders. All offenders are provided with three meals a day.

19. All Correctional centres are administered in accordance with UN Standard Minimum Rules for the Treatment of Prisoners.

VI. Sexual Offences and Domestic Violence Bill[16]

20. This recommendation is accepted. Swaziland will adopt without further delay the Sexual Offences and Domestic Violence Bill and take measures to abolish practises that are harmful to women and girls.

VII. Early marriages[17]

21. Swaziland accepts this recommendation. The Marriage Act is currently being amended. The Draft Bill provides for 21 years being the marriageable age for both boys and girls.

VIII. Prohibition of corporal punishment[18]

22. The recommendation is accepted in part. The Education Sector Policy already prohibits corporal punishment in schools, hence the Ministry of Education has introduced positive discipline in schools.

23. Legislation still provides for corporal punishment of offenders. However, in practice the courts do not impose corporal punishment as a sentence for offenders and hence offenders are not subjected to corporal punishment. In as far as children in conflict with the law are concerned, the Child Protection and Welfare Act, 2012 has abolished whipping as a competent sentence.

24. Swaziland is not yet ready to accept prohibiting corporal punishment of children in the home.

IX. Forced labour[19]

25. Swaziland accepts this recommendation. Section 17 (2) of the Constitution of Swaziland provides that "A person shall not be required to perform forced labour". This provision is being implemented and observed.

X. Composition of the Judicial Service commission[20]

26. This recommendation is noted.

XI. Freedom of expression, association and assembly[21]

27. Swaziland accepts these recommendations. The Constitution of Swaziland guarantees the rights to freedom of expression, association and assembly. Since Swaziland's review in May 2016, the Public Order Bill has been tabled before the House of Assembly and it went through a process of public consultation.

28. The objects of the Bill are to:

(a) promote and protect order, public health, public safetyand public morals;

(b) give effect to fundamental rights of freedom of peaceful and freedom of expression embodied in the Constitution of the Kingdom of Swaziland;

(c) provide for notification and consultation in respect of public gatherings;

(d) provide for the regulation and prohibition of public gatherings and public events;

(e) delimit and regulate the powers of the police during public gatherings; and

(f) define and proscribe certain public order offences.

29. The House of Assembly has passed the Bill and it is now before the Senate which is also expected to pass the Bill.

XII Freedom of information law[22]

30. This recommendation is accepted. A draft access to Information Bill is in place. The Bill seeks to encourage a culture of openness, transparency and accountability in public bodies by providing for access to information held by these public bodies thus enabling every citizen to fully exercise their constitutional right to freedom of expression.

XIII. Amend suppression of terrorism act[23]

31. Swaziland accepts this recommendation. The House of Assembly has passed the Suppression of Terrorism (Amendment) Bill. The Bill amends the definition of 'terrorist act'. In the Bill 'terrorist act' is confined to the use of force or threat of force to achieve political objectives. The Bill is now before the second chamber of Parliament, the Senate.

XIV. Registration of political parties[24]

32. Swaziland has noted this recommendation. The State is not yet ready to allow political parties to register and contest political power. The majority of Swazis do not want political parties to contest elections. However, individual members of political parties are able to contest elections in their personal capacities.

Notes

[1] Recommendations 109.1, 109.2, 109.3, 109.4, 109.5, 109.6, 109.7 and 109.8.
[2] Recommendations 109.9, 109.10, 109.11, and 109.12.
[3] Recommendations 109.13, 109.14 and 109.15.
[4] Recommendation 109.11.
[5] Recommendations109.16, 109.17, 109.18, 109.19 and 109.20.

[6] Recommendations 109.20, 109.21, 109.22, 109.23, 109.24, and 109.25.
[7] Recommendation 109.26.
[8] Recommendation 109.27.
[9] Recommendations 109.6, 109.7, 109.8, 109.37, 109.38, 109.39.
[10] Recommendations 109.28, 109.31, 109.32, 109.33, 109.34, 109.35, and 109.36.
[11] Recommendation 109.29.
[12] Recommendations 109.30, 109.49.
[13] Recommendations 109.40, 109.41, 109.42, 109.43 and 109.44.
[14] Recommendations 109.45 and 109.46.
[15] Recommendations 109.47 and 109.48.
[16] Recommendations 109.49 and 109.50.
[17] Recommendations 109.51, 109.52, 109.53, 109.54, 109.55, 109.56 and 109.57.
[18] Recommendation 109.58.
[19] Recommendation 109.59.
[20] Recommendation 109.60.
[21] Recommendations 109.61, 109.62, 109.63, 109.65, 109.69 and 109.70.
[22] Recommendation 109.64.
[23] Recommendations 109.66, 109.67 and 109.68.
[24] Recommendations 109.70, 109.71 and 109.72.